

may be provided under this section does not mean that a PHA is relieved from compliance with the provisions of federal law and regulations or other handbook requirements. For example, although a high performer or standard performer may be relieved of requirements for prior HUD approval for certain types of contracts for services, the PHA must still comply with all other federal and state requirements that remain in effect, such as those for competitive bidding or competitive negotiation (*see* 24 CFR 85.36).

(c) *Audits and reviews not relieved by designation.* A PHA designated as a high performer or standard performer remains subject to:

(1) Regular independent auditor audits;

(2) Office of Inspector General audits or investigations as circumstances may warrant; and

(3) Reviews identified by the regional or field office in its current Risk Assessment of PHAs and projects.

§ 902.73 PHAs with deficiencies.

(a) *Oversight and action.* Standard and substandard performers will be referred to the field office for appropriate oversight and action.

(1) A standard performer that receives a total score of at least 60 percent shall be required to correct the deficiencies in performance within the time period for correction, as stated in § 902.73(c). If the PHA fails to correct the deficiencies, HUD may either require the PHA to enter into a Corrective Action Plan, or HUD may take other action, as appropriate.

(2) A substandard performer, *i.e.*, a PHA that achieves a PHAS score of at least 60 percent and achieves a score of less than 60 percent of the total points available under one or more of the physical condition, management operations, or financial condition PHAS indicators, shall be required to correct the deficiencies in performance within the time period for correction. If the PHA fails to correct the deficiencies, HUD may require the PHA to enter into a Corrective Action Plan, or take other action, as appropriate.

(3) A PHA with a project(s) that receives less than 60 percent of the points available for the physical condition,

management operations, or financial condition PHAS indicators, or less than 50 percent of the points available for the capital fund indicator, shall be required to correct the deficiencies in performance within the time period for correction, as stated in § 902.73(b). If the PHA fails to correct the deficiencies within the time period allowed, HUD may either require the PHA to enter into a Corrective Action Plan, or take other action, as appropriate.

(b) *Correction of deficiencies.* (1) *Time period for correction.* After a PHA's (or DF-RMC's) receipt of its final overall PHAS score and designation as: A standard performer, within the range described in § 902.73(a)(1); or substandard performer, within the range described in § 902.73(a)(2), or, in the case of an RMC, after notification of its score from a PHA, a PHA or RMC shall correct any deficiency indicated in its assessment within 90 days, or within such period as provided in the HUD-executed Corrective Action Plan, if required.

(2) *Notification and report to regional or field office.* A PHA shall notify the regional or field office of its action to correct a deficiency. A PHA shall also forward to the regional or field office an RMC's report of its action to correct a deficiency. A DF-RMC shall forward directly to the regional or field office its report of its action to correct a deficiency.

(c) *Failure to correct deficiencies.* (1) If a PHA (or DF-RMC or RMC) fails to correct deficiencies within the time period noted in paragraph (b) of this section, or to correct deficiencies within the time specified in a Corrective Action Plan, or within such extensions as may be granted by HUD, the field office will notify the PHA of its noncompliance.

(2) The PHA (or DF-RMC or RMC) will provide the field office with its reasons for lack of progress in negotiating, executing, or carrying out the Corrective Action Plan, within 30 days of the PHA's receipt of the noncompliance notification. HUD will advise the PHA as to the acceptability of its reasons for lack of progress.

(3) If HUD finds the PHA's (or DF-RMC or RMC's) reasons for lack of

progress unacceptable, HUD will notify the PHA (or DF-RMC or RMC) that it will take such actions as it may determine appropriate in accordance with the provisions of the 1937 Act and other statutes, the ACC, this part, and other HUD regulations, including, but not limited to, the remedies available for substantial default.

§ 902.75 Troubled performers.

(a) *General.* Upon a PHA's designation as a troubled performer, in accordance with the requirements of section 6(j)(2)(B) of the Act (42 U.S.C. 1437d(j)(2)(B)) and in accordance with this part, HUD must notify the PHA and shall refer each troubled performer PHA to the PHA's field office, or other designated office(s) at HUD, for remedial action, oversight, and monitoring. The actions to be taken by HUD and the PHA will include statutorily required actions, and such other actions as may be determined appropriate by HUD.

(b) *Memorandum of agreement (MOA).* Within 30 days of notification of a PHA's designation as a troubled performer, HUD will initiate activities to negotiate and develop an MOA. An MOA is required for a troubled performer. The final MOA is a binding contractual agreement between HUD and a PHA. The scope of the MOA may vary depending upon the extent of the problems present in the PHA. It shall include, but not be limited to:

(1) Baseline data, which should be data without adjustments or weighting but may be the PHA's score in each of the PHAS indicators or subindicators identified as a deficiency;

(2) Performance targets for such periods specified by HUD (*e.g.*, annual, semiannual, quarterly, monthly), which may be the attainment of a higher score within an indicator or subindicator that is a problem, or the description of a goal to be achieved;

(3) Strategies to be used by the PHA in achieving the performance targets within the time period of the MOA, including the identification of the party responsible for the completion of each task and for reporting progress;

(4) Technical assistance to the PHA provided or facilitated by HUD; for example, the training of PHA employees

in specific management areas or assistance in the resolution of outstanding HUD monitoring findings;

(5) The PHA's commitment to take all actions within its control to achieve the targets;

(6) Incentives for meeting such targets, such as the removal of a troubled performer designation or troubled with respect to the program for assistance from the Capital Fund program under section 9(d) of the Act (42 U.S.C. 1437g(d)) and HUD recognition for the most-improved PHAs;

(7) The consequences of failing to meet the targets, which include, but are not limited to, the interventions stated in 24 CFR part 907 and in section 6(j)(3) of the Act (42 U.S.C. 1437d(j)(3)); and

(8) A description of the involvement of local public and private entities, including PHA resident leaders, in carrying out the agreement and rectifying the PHA's problems. A PHA shall have primary responsibility for obtaining active local public and private entity participation, including the involvement of public housing resident leaders, in assisting PHA improvement efforts. Local public and private entity participation should be premised upon the participant's knowledge of the PHA, ability to contribute technical expertise with regard to the PHA's specific problem areas, and authority to make preliminary commitments of support, financial or otherwise.

(c) *PHA review of MOA.* The PHA will have 10 days to review the MOA. During this 10-day period, the PHA shall resolve any claimed discrepancies in the MOA with HUD, and discuss any recommended changes and target dates for improvement to be incorporated in the final MOA. Unless the time period is extended by HUD, the MOA is to be executed 15 days following issuance of the draft MOA.

(d) *Maximum recovery period.* (1) *Expiration of the first-year improvement period.* Upon the expiration of the one-year period that started on the date on which the PHA receives initial notice of a troubled performer designation, the PHA shall, by the next PHAS assessment that is at least 12 months after the initial notice of the troubled